

Notice of Allowability

Application No.

10/689,970

Applicant(s)

FOSTER ET AL.

Examiner

ADAM LEVINE

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Request to Reopen Prosecution dated 11 November 2009.
2. ☒ The allowed claim(s) is/are 1-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

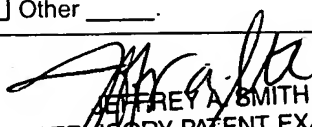
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20100114.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

DETAILED ACTION

Applicants' request to reopen prosecution pursuant to 37 CFR 41.50(b)(1) includes amendments under 37 CFR 1.111 and supporting remarks filed on November 11, 2009. These amendments and remarks are responsive to new grounds of rejection included in the Board of Patent Appeals and Interferences opinion dated September 15, 2009, pursuant to 37 CFR 41.50(b). Claims 12-13 and 16-20 are amended. Prosecution is hereby reopened to consider the amendments and remarks filed responsive to the new ground of rejection. Claims 1-30 are pending. Claims 12-20 are considered herein.

Response to Amendment

Pertaining to rejection under 35 USC 112 second paragraph

Claim 12 was rejected in the final office action as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicants regard as the invention. The Board of Patent Appeals and Interferences affirmed this rejection in their decision dated September 15, 2009, and included new grounds of rejection directed to claims 13-20 based on the same rationale as the rejection of claim 12. The amendments to claims 12-13 and 16-20 have adequately overcome this rejection and it is withdrawn.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

This amendment is necessary in order to comply with statutory subject matter requirements pertaining to the definition of a computer readable medium as an apparatus. See In re Nuijten, 500 F.3d 1346 (Fed. Cir. 2007). Authorization for this examiner's amendment was given in a telephone interview with attorney Joseph J. Wang (Reg. No. 61,123) on January 14, 2010.

The application has been amended as follows:

In the Claims

Claims 25-27 have been amended as follows:

25. (Currently Amended) A machine-readable non-transitory medium including a set of instructions that, when executed by a machine, cause the machine to:

identify a term associated with a user interaction in the network-based computer system, the identified term occurring within a search query;

automatically generate a recommendation query including the identified term;

run the recommendation query against a plurality of listings of the network-based computer system to identify at least one recommended listing; and

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communicate a data signal including the at least one recommended listing to a user of the network-based computer system.

26. (Currently Amended) The machine-readable non-transitory medium of claim 25, wherein the user interaction with the network-based computer system includes searching a plurality of listings of the network-based computer system utilizing a search query and the identified term occurs within a search query.

27. (Currently Amended) The machine-readable non-transitory medium of claim 25, wherein a listings signal including the plurality of listings hosted by the network-based computer system is communicated to the client machine for viewing, and the identified term is associated with the listings viewed.

Allowable Subject Matter

1. Claims 1-30 are allowed.

Conclusion

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM LEVINE whose telephone number is (571)272-8122. The examiner can normally be reached on M-F, 8:30-5:00 Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571.272.6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Adam Levine
Patent Examiner
January 14, 2010
/Adam Levine/
Examiner, Art Unit 3625



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